

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Kim J. H.,

Case No. 18-cv-2736 (MJD/TNL)

Plaintiff,

v.

REPORT & RECOMMENDATION

Andrew Saul,
Commissioner of Social Security,

Defendant.

David F. Chermol, Chermol & Fishman LLC, 11450 Bustleton Avenue, Philadelphia, PA 19116; and Edward C. Olson, 331 Second Avenue South, Suite 420, Minneapolis, MN 55401 (for Plaintiff); and

Michael A. Moss, Special Assistant United States Attorney, Social Security Administration, 1301 Young Street, Suite A702, Dallas, TX, 75202 (for Defendant).

I. INTRODUCTION

This matter comes before the Court on Plaintiff Kim J. H.’s Motion for Attorney’s Fees Pursuant to the Equal Access to Justice Act (“EAJA”). (ECF No. 25.) This matter has been referred to the undersigned for a Report and Recommendation to the Honorable Michael J. Davis, District Judge for the United States District Court for the District of Minnesota, pursuant to 28 U.S.C. § 636 and D. Minn. LR 72.1. For the reasons that follow, the Court recommends that the motion be **GRANTED**.

II. DISCUSSION

In September of 2018, Plaintiff initiated an action for judicial review of the Commissioner’s denial of her disability insurance benefits. (ECF No. 1.) Cross motions

for summary judgment were subsequently filed by Plaintiff and the Commissioner. (ECF Nos. 12, 15.) On January 28, 2020, this Court issued a Report & Recommendation recommending that Plaintiff's motion be granted in part and denied in part; the Commissioner's motion be granted in part and denied in part; and this matter be remanded to the Commissioner for further proceedings. (ECF No. 20.) On February 21, 2020, the district court accepted the recommended disposition, and this matter was remanded to the Commissioner for further proceedings. (ECF No. 22.) Plaintiff then filed the instant motion.

Under the EAJA, "a party who prevails in a civil action against the United States—including a lawsuit seeking judicial review of administrative action—shall be awarded fees and expenses 'unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.'" *Rapp v. Colvin*, No. 12-cv-2473 (PJS/TNL), 2014 WL 5461889, at *1 (D. Minn. Oct. 27, 2014) (quoting 28 U.S.C. § 2412(d)(1)(A)). In her present motion, Plaintiff seeks \$10,710.00 in attorney fees for 52.5 hours of work and \$500.00 in costs. (ECF No. 25 at 5; *see also* ECF No. 26 at 2-4.) The Commissioner does not object to Plaintiff's motion. (*See* ECF No. 29.)

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III. RECOMMENDATION

Based on the record, memoranda, proceedings herein, and no objections to the requested amounts, **IT IS HEREBY RECOMMENDED** that:

1. Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act (ECF No. 25) be **GRANTED**.
2. Plaintiff be awarded \$10,710.00 in reasonable attorney fees and \$500.00 in costs, subject to offset by any preexisting debt that Plaintiff owes to the United States.

Dated: October 7, 2020

s/Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).